

OLC 77-3439  
18 August 1977

MEMORANDUM FOR: Director of Central Intelligence

FROM:  Acting Legislative Counsel

SUBJECT: Request for Declassification of CIA  
Watergate Material

1.  Action Requested: None; for information only. We have received a request to declassify certain Agency material in the possession of the Senate Rules and Administration Committee. We are in the process of staffing out a position for recommendation to you, but in the meantime, it was felt that you should have the background in the event you are confronted with the issue, perhaps by Senator Howard Baker.

2.  Background:

a.  As part of the Senate Select Committee on Presidential Campaign Activities (the Ervin Committee) investigation of Watergate in 1974, Senator Baker conducted an investigation centering on the theory that CIA had prior knowledge of Watergate and the break-in or cover up of Dr. Fielding's office (Daniel Ellsberg's psychiatrist);

b.  There then ensued an almost continuous flow of information between CIA, via OLC, and Senator Baker's investigative staff (10 volumes, involving 700 documents);

c.  Ultimately, 24 Agency witnesses were interrogated, on a voluntary basis, under oath, which produced 2,000 pages of testimony;

d.  The report, prepared on the basis of this investigation, strongly inferred that the Agency had prior knowledge of Watergate and the Fielding break-in or cover up, contrary to the findings of all other investigations undertaken by other congressional committees and the Office of the Special Prosecutor. Our citation of contrary evidence was to no avail. The Ervin Committee did not adopt this report as

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a Committee report, but rather is was printed in the Committee report as the separate views of Senator Baker;

25X1 e. ☐ Senator Baker requested that the Agency sanitize and declassify the testimony of the 24 Agency witnesses and the 10 volumes of material which had been provided to him. In a letter to Senator Baker and the Chairmen of our oversight committees (Senators Stennis and McClellan) it was explained that the publication of this material, even in sanitized form, poses a serious problem because it would suggest that information provided by persons dealing with CIA on a confidential basis may be later published and this could impair valuable sources and methods of intelligence;

25X1 f. ☐ The Ervin Committee expired in June of 1974 and the issue was never resolved;

25X1 g. ☐ The testimony of the 24 Agency witnesses and the 10 volumes of material was, by Senate resolution, placed in the custody of the Senate Rules and Administration Committee. The senior staffer of the Committee had previously asked our opinion about declassifying this information in response to a constituent request, and accepted our recommendation that no useful purpose would be served. On 15 August, this same staffer raised the question again indicating that the request was being pursued under the Executive Order dealing with declassification of classified information and suggesting that Senatorial interest may be involved.

25X1 3. ☐ Tentative Staff Position: We are reviewing the requirements of the pertinent Executive Orders and implementing regulations in the interest of providing you a staff position with respect to this request. At this reading it would still seem to be that there would be no interest served by declassifying this information. There is nothing in it relevant to the break-in or cover up issues of Watergate, but obviously 2,000 pages of testimony and 700 pages of documents represents a fertile field for FOIA requests and mischief.

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